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SUPREME COURT OF THE UNITED STATES.

No. 80.

DAVID PROUTY AND JOHN MEARS, PL'FFS IN ER.,

vs.

DRAPER RUGGLES, ET AL.

IN ERROR TO THE CIRCUIT COURT U. S. FOR MASSACHUSETTS.

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S. D. Langtree, Print.

UNITED STATES, *ss.*

The President of the United States, to the Judges of the
[L. S.] Circuit Court holden in and for the District of Massachusetts, greeting:

Because that in the record and process, and also in the rendering of judgment in a suit before you, or some of you, between David Prouty and John Mears, plaintiffs, and Draper Ruggles, Joel Nourse and John C. Mason, defendants, in a plea of the case, a manifest error has intervened to the great damage of the said David Prouty and John Mears, as in their complaint has been stated. And as it is just and proper that the error, if any there be, should be corrected in due manner, and that full and speedy justice should be done to the parties aforesaid in this behalf, you are hereby commanded, that, if judgment thereof be given, then under your seal you do distinctly and openly send the record and process in the suit aforesaid, with all things concerning them, and this writ, so that you have the same before the Chief Justice and the Associate Justices of the Supreme Court of the United States, on the second Monday of January next, at Washington, being the present seat of the National Government, that the record and process aforesaid being inspected, they may cause to be done thereupon what of right ought to be done.

Witness the Honourable Roger B. Taney, Esquire, Chief Justice of the said Supreme Court, at Washington aforesaid, this sixth day of November, in the year of our Lord one thousand eight hundred and forty-one, and of the Independence of the United States the sixty-sixth.

FRANCIS BASSETT, *Clerk.*

UNITED STATES OF AMERICA, MASSACHUSETTS DISTRICT, *ss.*

At a Circuit Court of the United States for the first circuit, begun and holden at Boston, within and for the district of Massachusetts, on Friday the fifteenth day of October, in the year of our Lord one thousand eight hundred and forty-one, before the Honorable Joseph Story, Associate Justice, Peleg Sprague, District Judge.

David Prouty, of Boston, in the County of Suffolk, in said district of Massachusetts, and John Mears, of Dorchester, in the County of Norfolk, in said district of Massachusetts, plaintiffs, *vs.* Draper Ruggles, Joel Nourse and John C. Mason, all of Worcester, in the County of Worcester, in said district of Massachusetts, manufacturers and copartners, under the firm of Ruggles, Nourse & Mason, def'ts.

In a plea of the case, for that the plaintiffs were the original and first inventors of a certain new and useful improvement in the construction of the plough, in the letters patent hereinafter mentioned and fully described, the same being a new and useful improvement in the construction of the plough, which was not known or used before their said invention, and which was not, at the time of their application for a patent, as hereinafter mentioned, in public use or on sale with their consent or allowance:

And the plaintiffs being, as aforesaid, the inventors thereof, and being also citizens of the United States, on the fourth day of March, in the year eighteen hundred and thirty-six, upon due application therefor, did obtain certain letters patent therefor in due form of law, under the seal of the United States, signed by the President of the United States, and countersigned by the Secretary of State, and duly certified by Attorney General of the United States, bearing date the day and year aforesaid, whereby there was secured to them, their heirs, administrators or assigns, for the term of fourteen years from the said fourth day of March, in the year eighteen hundred and thirty-six, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, as by said letters patent in court to be produced, will fully appear.

And the plaintiffs further say, that from the time of the granting to them of the said letters patent, they have made, constructed and vended to others, to be used, the said invention, to their great advantage and profit.

Yet the said Ruggles, Nourse and Mason, well knowing the premises, and contriving to injure the plaintiffs, did, on the third day of November, in the year eighteen hundred and thirty-eight, and at divers times before and afterwards, during the said term of fourteen years, mentioned in said letters patent, and before the purchase of this writ, at Worcester, in the County of Worcester, in the said district of Massachusetts, unlawfully and wrongfully, and without the consent and allowance, and against the will of the plaintiffs, make and vend to others to be used, the said improvement, in violation and infringement of the exclusive right secured to the plaintiffs by the said letters patent as aforesaid, and contrary to the form of the statutes of the United States, in such case made and provided, whereby the plaintiffs have been greatly injured and deprived of great profits and advantages, which they might, and otherwise would, have derived from the said invention, and have sustained actual damages to the amount of thirty thousand dollars; and by force of the statutes aforesaid, an action has accrued to them to recover the said actual damage, and such additional amount, not exceeding, in the whole, three times the amount of such actual damages, as the court may see fit to order and adjudge; yet the said Ruggles, Nourse and Mason, though requested, have never paid

the same, or any part thereof, to the plaintiffs, but have refused, and yet refuse so to do.

Also, for that the plaintiffs were the original and first inventors of a certain new and useful improvement in the construction of the plough, in the letters patent hereinafter mentioned and fully described, the same being a new and useful improvement in the construction of the plough, which was not known or used before their said invention, and which was not, at the time of their application for a patent as hereinafter mentioned, in public use or on sale with their consent or allowance.

And the plaintiffs being so as aforesaid the inventors thereof, and being also citizens of the United States, on the fourth day of March, eighteen hundred and thirty-six, upon due application therefor, did obtain certain letters patent therefor, in due form of law, under the seal of the United States, signed by the President of the United States, and countersigned by the Secretary of State, and duly certified by the Attorney General of the United States, and bearing date the day and year aforesaid, whereby there was secured to them, their heirs, administrators or assigns, for the term of fourteen years from the said fourth day of March, in the year eighteen hundred and thirty-six, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, as by the said letters patent in court to be produced, will fully appear.

And the plaintiffs further say, that from the time of the granting to them of the said letters patent, they have made, constructed and vended to others to be used, the said invention to their great advantage and profit. Yet the said Ruggles, Nourse & Mason, well knowing the premises, and contriving to injure the plaintiffs, did, on the third day of November, in the year eighteen hundred and thirty-eight, and at divers times before and afterwards, during the said term of fourteen years mentioned in said letters patent, and before the purchase of this writ, at Worcester, in the county of Worcester, in the said district of Massachusetts, unlawfully and wrongfully, and without the consent and allowance, and against the will of the plaintiffs, make the said improvement in violation and infringement of the exclusive right secured to the plaintiffs by said letters patent, as aforesaid, and contrary to the form of the statutes of the U. States, in such case made and provided, whereby the plaintiffs have been greatly injured and deprived of great profits and advantages, which they might, and otherwise would have derived from the said invention, and have sustained actual damage to the amount of thirty thousand dollars; and by force of the statutes aforesaid, an action has accrued to them, to recover the said actual damage, and such additional amount, not exceeding in the whole three times the amount of such actual damages, as the court may see fit to order and adjudge; yet the said Ruggles, Nourse & Mason, though

requested, have never paid the same, or any part thereof to the plaintiffs, but have refused so to do.

And also, for that the plaintiffs were the original and first inventors of a certain new and useful improvement in the construction of the plough, in the letters patent hereinafter mentioned, and fully described, the same being a new and useful improvement in the construction of the plough, which was not known or used before their said invention, and which was not, at the time of their application for a patent, as hereinafter mentioned, in public use, or on sale with their consent or allowance. And the plaintiffs being so as aforesaid inventors therefor, and being also citizens of the United States, on the fourth day of March, in the year eighteen hundred and thirty-six, upon due application thereof, did obtain certain letters patent therefor, in due form of law, under the seal of the United States, signed by the President of the United States, and countersigned by the Secretary of State, and duly certified by the Attorney General of the United States, bearing date the day and year aforesaid, whereby there was secured to them, their heirs, administrators or assigns, for the term of fourteen years from the said fourth day of March, in the year eighteen hundred and thirty-six, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, as by said letters patent, in court to be produced, will fully appear.

And the plaintiffs further say, that from the time of granting to them of the said letters patent, they have made, constructed and vended to others to be used, the said invention, to their great advantage and profit; yet the said Ruggles, Nourse & Mason, well knowing the premises, and contriving to injure the plaintiffs, did, on the third day of November, in the year eighteen hundred and thirty-eight, and at divers times before and afterwards, during the said term of fourteen years, mentioned in the said letters patent, and before the purchase of this writ, at Worcester, in the county of Worcester, in the said district of Massachusetts, unlawfully, and wrongfully, and without the consent, and against the will of the plaintiffs, vend to others to be used, the said improvement, in violation and infringement of the exclusive right secured to the plaintiffs by the said letters patent, as aforesaid, and contrary to the form of the statutes of the United States, in such case made and provided, whereby the plaintiffs have been greatly injured, and deprived of great profits and advantages, which they might, and otherwise would have derived from the said invention, and have sustained actual damage to the amount of thirty thousand dollars; and by force of the statutes aforesaid, an action has accrued to them to recover the said actual damages, and such additional amount, not exceeding in the whole three times the amount of such actual damage, as the court may see fit to order and adjudge. Yet the said Ruggles, Nourse & Mason, though requested, have never paid

the same, or any part thereof to the plaintiffs, but have refused, and yet refuse so to do, to the damage of the said Prouty & Mears, as they say, the sum of ten thousand dollars.

This action was entered at the October term, A. D. 1840, of this court, and thence was continued from term to term, until this present term. And now the said Draper Ruggles and others, by their attorneys, Allen & Dexter, come and defend, when, &c., and for plea say, that they are not guilty in manner and form, as the pl'ffs. have thereof declared against them, and thereof put themselves on the country. And pl'ffs. do likewise by their att'ys, Loring and Gray.

Issue being thus joined, the cause, after a full hearing, is committed to a jury, sworn according to law to try the same, who, after hearing all matters and things concerning the same, return their verdict therein upon oath, that is to say:

The jury find that the defendants are not guilty, in manner and form as the pl'ffs. have thereof declared against them.

It is therefore considered by the court, that the said Draper Ruggles, Joel Nourse and John C. Mason, recover against the said David Prouty and John Mears, costs of suit taxed at.

DAVID PROUTY & al.,
vs.
DRAPER RUGGLES & al.

[Bill of Exceptions.]

Be it remembered, that at a term of the Circuit Court of the United States for the first circuit, holden at Boston, within and for the District of Massachusetts, on the fifteenth day of October, in the year of our Lord one thousand eight hundred and forty-one, by the honorable Joseph Story, Esquire, Associate Justice of the Supreme Court of the United States, came David Prouty, of Boston, in the County of Suffolk, in said District of Massachusetts, and John Mears, of Dorchester, in the County of Norfolk, in said District of Massachusetts, and by an action of the case declared against Draper Ruggles, Joel Nourse, and John C. Mason, all of Worcester, in the County of Worcester, in said District of Massachusetts, manufacturers, and copartners under the firm of Ruggles, Nourse & Mason, the writ and declaration, and the service thereof; and the defendants' plea and issue joined are as follows, to wit:

[Copy of Writ, &c.]

MASSACHUSETTS DISTRICT, *ss.*

The *President* of the United States of America, to the [L. S.] Marshal of our District of Massachusetts, or his Deputy, greeting:

We command you to attach the goods or estate of Draper Ruggles, Joel Nourse, and John C. Mason, all of Worcester, in the County of Worcester, in said District of Massachusetts, manufacturers and copartners, under the firm of Ruggles, Nourse & Mason, in our District of Massachusetts, to the value of thirty thousand dollars, and for want thereof to take the bodies of the said Ruggles, Nourse & Mason, if they may be found in your district, and them safely keep, so that you have them before our Judges of our Circuit Court of said United States for the first circuit, next to be holden at Boston, within and for our said District of Massachusetts, on the fifteenth day of October next, then and there in our said court to answer unto David Prouty, of Boston, in the County of Suffolk, in said District of Massachusetts, and John Mears, of Dorchester, in the County of Norfolk, in said District of Massachusetts, in a plea of the case.

[Declaration.]

For that the plaintiffs were the original and first inventors of a certain new and useful improvement in the construction of the plough, in the letters patent hereinafter mentioned and fully described, the same being a new and useful improvement in the construction of the plough, which was not known or used before their said invention, and which was not at the time of their application for a patent, as hereinafter mentioned, in public use, or on sale with their consent or allowance. And the plaintiffs being so as aforesaid the inventors thereof, and being also citizens of the United States, on the fourth day of March, in the year eighteen hundred and thirty-six, upon due application therefor, did obtain certain letters patent therefor, in due form of law, under the seal of the United States, signed by the President of the United States, and countersigned by the Secretary of State, and duly certified by the Attorney General of the United States, bearing date the day and year aforesaid, whereby there was secured to them, their heirs, administrators, or assigns, for the term of fourteen years from the said fourth day of March, in the year eighteen hundred and thirty-six, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, as by the said letters patent, in court to be produced, will fully appear.

And the plaintiffs further say, that from the time of the granting to them of the said letters patent, they have made, constructed and

vended to others to be used, the said invention, to their great advantage and profit. Yet the said Ruggles, Nourse & Mason, well knowing the premises, and contriving to injure the plaintiffs, did, on the third day of November, in the year eighteen hundred and thirty-eight, and at divers times before and afterwards, during the said term of fourteen years mentioned in said letters patent, and before the purchase of this writ, at Worcester, in the County of Worcester, in the said District of Massachusetts, unlawfully and wrongfully, and without the consent and allowance, and against the will of the plaintiffs, make and vend to others to be used, the said improvement, in violation and infringement of the exclusive right secured to the plaintiffs by the said letters patent as aforesaid, and contrary to the form of the statutes of the United States in such case made and provided, whereby the plaintiffs have been greatly injured and deprived of great profits and advantages, which they might and otherwise would have derived from the said invention, and have sustained actual damage to the amount of thirty thousand dollars; and by force of the statutes aforesaid, an action has accrued to them to recover the said actual damage, and such additional amount, not exceeding in the whole three times the amount of such actual damages, as the court may see fit to order and adjudge. Yet the said Ruggles, Nourse & Mason, though requested, have never paid the same, or any part thereof, to the plaintiffs, but have refused, and yet refuse so to do.

Also, for that the plaintiffs were the original and first inventors of a certain new and useful improvement in the construction of the plough, in the letters patent hereinafter mentioned and fully described, the same being a new and useful improvement in the construction of the plough, which was not known or used before their said invention, and which was not, at the time of their application for a patent, as hereinafter mentioned, in public use, or on sale with their consent or allowance. And the plaintiffs being so as aforesaid the inventors thereof, and being also citizens of the United States, on the fourth day of March, in the year eighteen hundred and thirty-six, upon due application therefor, did obtain certain letters patent therefor, in due form of law, under the seal of the United States, signed by the President of the United States, and countersigned by the Secretary of State, and duly certified by the Attorney General of the United States, bearing date the day and year aforesaid, whereby there was secured to them, their heirs, administrators, or assigns, for the term of fourteen years from the said fourth day of March, in the year eighteen hundred and thirty-six, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvements, as by the said letters patent, in court to be produced, will fully appear.

And the plaintiffs further say, that from the time of the granting to them of the said letters patent, they have made, constructed, and vended to others to be used, the said invention, to their great

advantage and profit. Yet the said Ruggles, Nourse & Mason, well knowing the premises, and contriving to injure the plaintiffs, did, on the third day of November, in the year eighteen hundred and thirty-eight, and at divers times before and afterwards, during the said term of fourteen years mentioned in said letters patent, and before the purchase of this writ, at Worcester, in the County of Worcester, in the said District of Massachusetts, unlawfully and wrongfully, and without the consent and allowance, and against the will of the plaintiffs, make the said improvement in violation and infringement of the exclusive right secured to the plaintiffs by the said letters patent, as aforesaid, and contrary to the form of the statutes of the United States in such case made and provided, whereby the plaintiffs have been greatly injured, and deprived of *deprived of* great profits and advantages, which they might and otherwise would have derived from the said invention, and have sustained actual damage to the amount of thirty thousand dollars; and by force of the statutes aforesaid, an action has accrued to them to recover the said actual damage, and such additional amount, not exceeding in the whole three times the amount of such actual damage, as the court may see fit to order and adjudge. Yet the said Ruggles, Nourse & Mason, though requested, have never paid the same, or any part thereof, to the plaintiffs, but have refused, and yet refuse so to do.

And, also, for that the plaintiffs were the original and first inventors of a certain new and useful improvement in the construction of the plough, in the letters patent hereinafter mentioned and fully described, the same being a new and useful improvement in the construction of the plough, which was not known or used before their said invention, and which was not, at the time of their application for a patent, as hereinafter mentioned, in public use, or on sale, with their consent or allowance. And the plaintiffs being so as aforesaid the inventors thereof, and being also citizens of the United States, on the fourth day of March, in the year eighteen hundred and thirty-six, upon due application therefor, did obtain certain letters patent therefor, in due form of law, under the seal of the United States, signed by the President of the United States, and countersigned by the Secretary of State, and duly certified by the Attorney General of the United States, bearing date the day and year aforesaid, whereby there was secured to them, their heirs, administrators, or assigns, for the term of fourteen years from the said fourth day of March, in the year eighteen hundred and thirty-six, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, as by said letters patent, in court to be produced, will fully appear.

And the plaintiffs further say, that from the time of the granting to them of the said letters patent, they have made, constructed, and vended to others to be used, the said invention, to their great advantage and profit; yet the said Ruggles, Nourse & Mason, well

knowing the premises, and contriving to injure the plaintiffs, did, on the third day of November, in the year eighteen hundred and thirty-eight, and at divers times before and afterwards, during the said term of fourteen years mentioned in the said letters patent, and before the purchase of this writ, at Worcester, in the County of Worcester, in the said District of Massachusetts, unlawfully and wrongfully, and without the consent and allowance, and against the will of the plaintiffs, vend to others to be used, the said improvement, in violation and infringement of the exclusive right secured to the plaintiffs by the said letters patent as aforesaid, and contrary to the form of the statutes of the United States in such case made and provided, whereby the plaintiffs have been greatly injured, and deprived of great profits and advantages, which they might and otherwise would have derived from the said invention, and have sustained actual damage to the amount of thirty thousand dollars; and by force of the statutes aforesaid, an action has accrued to them to recover the said actual damage, and such additional amount, not exceeding in the whole three times the amount of such actual damages, as the court may see fit to order and adjudge. Yet the said Ruggles, Nourse & Mason, though requested, have never paid the same, or any part thereof, to the plaintiffs, but have refused, and yet refuse so to do, to the damage of the said Prouty and Mears, as they say, the sum of ten thousand dollars, which shall then and there be made to appear, with other due damages. And have you there this writ, with your doings therein.

Witness the Hon. Roger B. Taney, at Boston, the thirtieth day of September, in the year of our Lord one thousand eight hundred and forty.

FRANCIS BASSETT, *Clerk.*

Marshal's Return on Writ.

U. S. AMERICA, *Mass. District, ss.*

Boston, Oct. 1st, 1840.

Pursuant hereunto, I attached a chip, the property of the within named defendants; also gave to each, in hand, a summons to appear as herein directed.

HENRY HARRIS,
U. S. Dep't. Marshal.

3 Serv's,	$6 00
Travel,	4 40
	$10 40

Defendant's Plea.

And now the said Draper Ruggles and others come and defend, when,

&c., and for plea say, that they are not guilty in manner and form as the pl'ffs have thereof declared against them; and thereof put themselves on the country.

By their att'ys,
ALLEN & DEXTER.

Issue Joined.

And the plaintiffs do likewise, by their att'ys,
LORING & GRAY.

Which issue, being joined as aforesaid, came on to be tried by a jury, duly empanelled and sworn for that purpose.

The plaintiffs offered and gave in evidence their letters patent, dated on the fourth day of March, in the year of our Lord eighteen hundred and thirty-six. Which letters patent are as follows, to wit:

Letters Patent.

The United States of America, to all to whom these Letters Patent shall come:

Whereas, David Prouty and John Mears, citizens of the United States, have alleged that they have invented a new and useful improvement in the construction of the plough, which improvement, they state, has not been known or used before their application; have made oath that they do verily believe, that they are the true inventors or discoverers of the said improvement, have paid into the treasury of the United States the sum of thirty dollars, delivered a receipt for the same, and presented a petition to the Secretary of State, signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose.

These are, therefore, to grant, according to law, to the said David Prouty and John Mears, their heirs and administrators, or assigns, for the term of fourteen years from the fourth day of March, one thousand eight hundred and thirty-six, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement; a description whereof is given in the words of the said David Prouty and John Mears themselves, in the schedule hereto annexed, and is made a part of these presents.

In testimony whereof, I have caused these letters to be
[L. S.] made patent, and the seal of the United States to be hereunto affixed.

Given under my hand, at the City of Washington, this fourth day of March, in the year of our Lord one thousand eight hundred

and thirty-six, and of the independence of the United States of America, the sixtieth.

By the President,
ANDREW JACKSON.

JOHN FORSYTH, *Secretary of State.*

CITY OF WASHINGTON, *to wit :*

I do hereby certify, that the foregoing letters patent were delivered to me, on the fourth day of March, in the year of our Lord one thousand eight hundred and thirty-six, to be examined; that I have examined the same, and find them conformable to law; and I do hereby return the same to the Secretary of State, within fifteen days from the date aforesaid, to wit, on this fifth day of March, in the year aforesaid.

B. F. BUTLER,
Attorney General of the United States.

Schedule.

The schedule referred to in these letters patent, and making part of the same, containing a description in the words of the said David Prouty and John Mears themselves, of *of* their improvement in the construction of the plough.

To all to whom these presents shall come, David Prouty, of Hanover, in the County of Plymouth, and Commonwealth of Massachusetts, and John Mears, of Dorchester, in the County of Norfolk, in said commonwealth, gentlemen, send greeting :

Be it known, that we, the said Prouty and Mears, have jointly invented, made, and applied to use, a new and useful improvement in the construction of the plough, which invention and improvement we describe and specify as follows, viz :

Heretofore, the standard and landside of the plough has been placed perpendicular to, and at right angles with the plane of the share; on this standard the beam has been placed in such manner as to form an acute angle with the landside, of such extent as to place that part of the beam to which the moving power is applied at the distance of three or more inches from an extended line of the landside, to the right; while the after part of the beam extends one or more inches to the left of the perpendicular of the landside, near the handle; the object has been to cause the plough "to run to land," or hold its width of furrow. The effect produced has been an uneasy struggling motion, as it meets resistance at the point, wing or heel.

We make our plough with the standard and landside forming an acute angle with the plane of the share, the standard inclining to the right or furrow side, in such manner as to enable us to place the

centre of the beam on a line parallel with the landside, the fore-part thereof at such distance from the extended line aforesaid, as to cause the plough to hold its width of furrow, and the after part falling within the perpendicular of the landside of the plough, the centre of it being nearly perpendicular to the centre of resistance, on the mould board, which we conceive to be at about one-fourth part of the lateral distance from the landside to the wing of the share, and at about one-third part of the perpendicular height from the plane of the share to the upper edge of the mould-board.

This location of the centre of resistance, we base on the fact, that many ploughs which have been used in sharp sandy soils have been worn quite through at that point. The result of this formation of the plough, is a steady, well-balanced motion, requiring less power of draft, and less effort in directing the plough in its course.

The inclination of the standard and landside causes the plough to cut under and take up the furrow in the form of an oblique angled parallellogram, or like a board, feather edged, which being turned over, falls in level with the last furrow, more readily than right-angled or square-edged work.

The coulter or knife, having a similar inclination, cuts the roots of the grass, &c., and leaves all vegetable matter on the surface, at a greater distance from the under edge of the furrow, which being turned over, more readily falls in, and is far better covered than with square-edged work.

The top of the standard, through which the bolt passes to secure the beam, is transversely parallel to the plane of the share, and extends back from the bolt to such distance as to form a brace to the beam, when the after part is passed down by lifting at the fore-part; the share being fast under a rock, or other obstruction, the after part of this extension is squared in such manner, that being jogged into the beam, it relieves the bolt in heavy draft.

The bolts which we use to fasten the pieces of cast iron, of which our ploughs are made, together, and the wood work, are round, with inverted convex heads, like the wood screw, with a projection on the under side of the head, of semicircular form, which fits into a groove in the counter sink part of the bolt hole, as it is cast to receive it, which not only prevents its turning, but also diminishes the liability of breakage at the corners of square holes; all which will more fully appear by reference to the drawing annexed to, and forming part of this specification.

We hereby declare, that what we claim as new, and of our invention, is the construction of such ploughs as aforesaid, and the several parts thereof, not *separately*, but in combination, for the purposes aforesaid, viz:

1st. The inclining the standard and landside so as to form an acute angle with the plane of the share.

2d. The placing the beam on a line parallel to the landside,

within the body of the plough and its centre, nearly in the perpendicular of the centre of resistance.

3d. The forming the top of the standard for brace and draft. We do not intend to confirm our claim to any particular form or construction, excepting such form as may be necessary to place the beam in the perpendicular of the centre of resistance and parallel to the land side, and also to such form of the top of the standard, as shall serve for brace and draft, but have given such form as we deem to be most convenient, which may be varied, as is obvious.

In testimony that the above is a true specification of our invention, we have hereto set our hands, the seventh day of November, in the year of our Lord one thousand eight hundred and thirty-five.

DAVID PROUTY,
JOHN MEARS.

Witnesses :
LORENZO PROUTY,
ELLIS GRAY LORING.

Which said letters patent were recorded anew in the Patent Office, on the fourth day of June, in the year of our Lord one thousand eight hundred and thirty-eight, as appears by the certificate endorsed thereon, as follows, to wit :

Letters patent recorded anew.

PATENT OFFICE.

[L. S.] Received 4th June, 1838, and recorded anew in this office, in conformity with the act of Congress passed 3d March, 1837.

H. L. ELSWORTH,
Commissioner of Patents.

The plaintiffs offered to prove the utility of the alleged improvement, which proof was dispensed with by the defendants. Certain ploughs alleged by the plaintiffs to be made in conformity with their letters patent, and certain ploughs made by the defendants, which were the alleged infringement of the plaintiff's patent, were produced in court, and no substantial difference between them was shown by the defendants to exist, unless the fact, that the top of the standard, in the defendants' plough was not jogged into the beam, and did not extend so far back upon the beam, was to be so considered.

And the plaintiffs offered evidence to show, that the top of the standard formed as stated in the specification, would serve for both purposes of brace and draft, although not jogged into the beam.

The defendants introduced no evidence. The counsel for the plaintiffs requested the honorable court to instruct the jury as follows, to wit:

Circuit Court of United States, First Circuit.

DAVID PROUTY & al.,
vs.
DRAPER RUGGLES & als.

Motion of plaintiff's counsel for instruction to the jury.

The counsel of plaintiffs respectfully move the court, to instruct the jury, that if the defendants have used, in combination with the other two parts, a standard of the description set forth in the specification, and it is proved to serve both for brace and draft, such use was an infringement of the plaintiffs' claim in that particular, although the defendants may not have inserted into a jog in the beam.

Also, that if any two of the three parts described, as composing the construction claimed in the specification, had been used in combination by the defendants, it was an infringement of the patent, although the third had not been used with them.

LORING & GRAY,
for Plaintiffs.

The court refused to give the instructions so prayed, or either of them, in manner and form as prayed by the plaintiffs, but did instruct the jury as follows, to wit:

Instructions of the Court to the Jury.

That upon the true construction of the patent, it is for a combination, and for a combination only. That the combination, as stated in the summing up, consists of three things, viz:

1st. The inclining the standard and landside so as to form an acute angle with the plane of the share.

2d. The placing the beam on a line parallel to the landside, within the body of the plough, and its centre nearly in the perpenticular of the centre of resistance.

3d. The forming the top of the standard for brace and draft.

That unless it is proved, that the whole combination is substantially used in the defendants' ploughs, it is not a violation of the plaintiffs' patent, although one or more of the parts specified, as aforesaid, may be used in combination by the defendants. And that the plaintiffs, by their specification and summing up, have treated the jogging of the standard behind, as well as the extension, to be essential parts of their combination for the pur-

pose of brace and draft, and that the use of either alone by the defendants would not be an infringement of the combination patented.

And thereupon the jury rendered their verdict as follows, to wit:

Verdict.

DAVID PROUTY & al.,
vs.
DRAPER RUGGLES & als.

The jury find, that the defendants are not guilty in manner and form as the plaintiffs have thereof declared against them.

BENJAMIN ATKINS,
Foreman.

To which refusal of the court to give the said instructions as prayed, and also the instruction of the court given, as aforesaid, the said plaintiffs at the trial excepted, and prayed this their bill of exceptions to be signed and sealed by the court, all which being found true, the same is accordingly signed and sealed.

In testimony whereof, I have hereunto set my hand and seal.

JOSEPH STORY, [L. S.]
Associate Justice of Supreme Court of U. States.

The drawings are to be annexed to this bill of exceptions.

JOSEPH STORY.

I, Francis Bassett, clerk of the Courts of the United States for the District of Massachusetts, hereby certify, that the foregoing is a true transcript of the record of said cause.

In testimony whereof, I have hereto set my hand and affixed the seal of the said Circuit Court, this third day of [L. S.] January, in the year of our Lord one thousand eight hundred and forty-two, and in the sixty-sixth year of the Independence of the United States of America.

FRANCIS BASSETT, *Clerk.*